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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CLYDE KENNETH DAVIS,

Defendant and Appellant.

E064492

(Super.Ct.No. RIF084150)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.

Affirmed.

Clyde Kenneth Davis, in pro. per.; and Donna L. Harris, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant, Clyde Kenneth Davis, filed a petition for resentencing pursuant to Penal Code section 1170.18,¹ which the court denied.² After defendant filed a

¹ All further statutory references are to the Penal Code unless otherwise indicated.

notice of appeal, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and identifying one potentially arguable issue: whether the court erred in denying defendant's petition. Defendant was offered the opportunity to file a personal supplemental brief, which he has done. In his brief, defendant contends that because he committed the offenses for which he was convicted under duress and has remained drug free for 14 years, the court should resentence him. We affirm.

I. PROCEDURAL HISTORY

On February 25, 1999, defendant pled guilty to first degree burglary. (§ 459, count 1.) On the same day, the court sentenced defendant to two years' incarceration

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² Defendant filed a single petition for three separate cases, RIF104003, RIF084150, and RIF083998. Defendant filed a single appeal as to the former two cases, but no appeal as to the latter case. This court has treated the appeal as two separate cases. The instant case pertains to Superior Court case No. RIF084150. The appeal as to Superior Court case No. RIF104003 is resolved by separate opinion in case No. E064491.

consecutive to the sentence he was already serving in Superior Court case No.

RIF083998.³

On December 23, 2014, defendant filed a petition for resentencing pursuant to section 1170.18 seeking reduction of his convictions from felonies to misdemeanors. Defendant asserted that in all the cases in which he had been convicted, the total value of the property stolen was less than \$300, below the threshold for a conviction for grand theft.

The People submitted a response in which they asserted defendant's burglary conviction rendered him ineligible for resentencing. The court denied defendant's petition, noting that burglary was not an offense which qualified for resentencing pursuant to section 1170.18.

II. DISCUSSION

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues. (See *People v. Acosta* (2015) 242 Cal.App.4th 521, 526 [attempted burglary not within purview of § 1170.18 resentencing].)

³ The abstract of judgment appears to reflect that defendant was convicted of possession of a controlled substance (Health & Saf. Code, § 11350) in Superior Court case No. RIF083998, for which the court sentenced him to eight months' incarceration.

III. DISPOSITION

The judgment is affirmed.

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McKINSTER
J.

We concur:

RAMIREZ
P. J.

MILLER
J.